

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

DAVID MIDDENDORF, et al.,

Defendants.

18 Cr. 36 (JPO)

**DECLARATION OF NOLA B. HELLER IN SUPPORT OF DEFENDANT
THOMAS WHITTLE'S MOTION TO COMPEL PARTICULARIZATION
AND PRODUCTION OF *BRADY* MATERIAL**

NOLA B. HELLER declares under penalty of perjury pursuant to 28 U.S.C. § 1746
as follows:

1. I am a Partner at the law firm Cahill Gordon & Reindel LLP, counsel for Defendant Thomas Whittle in this matter. I submit this Declaration in support of Mr. Whittle's Motion to Compel Particularization and Production of *Brady* Material.
2. Attached hereto as Exhibit A is a true and correct copy of a letter from Nelson A. Boxer et al. to the Government, dated February 5, 2018.
3. Attached hereto as Exhibit B is a true and correct copy of a letter from Norman A. Bloch to the Government, transmitted on February 5, 2018, but erroneously dated February 5, 2017.
4. Attached hereto as Exhibit C is a true and correct copy of a letter from Nelson A. Boxer et al. to the Government, dated March 27, 2018.
5. Attached hereto as Exhibit D is a true and correct copy of a letter from Melinda Haag et al. to the Government, dated May 4, 2018.

6. Attached hereto as Exhibit E is a true and correct copy of a letter from Stephen R. Cook to the Government, dated May 9, 2018.

7. Attached hereto as Exhibit F is a true and correct copy of a letter from Stephen R. Cook to the Government, dated May 15, 2018.

8. Attached hereto as Exhibit G is a true and correct copy of a letter from Norman A. Bloch to the Government, dated May 17, 2018.

9. Attached hereto as Exhibit H is a true and correct copy of a letter from Bradley J. Bondi et al. to the Government, dated May 21, 2018.

10. Attached hereto as Exhibit I is a true and correct copy of a letter from Melinda Haag et al. to the Government, dated June 4, 2018.

11. Attached hereto as Exhibit J is a true and correct copy of a letter from the Government to Nelson Boxer et al., dated February 13, 2018.

12. Attached hereto as Exhibit K is a true and correct copy of a letter from the Government to Norman Bloch, dated February 13, 2018.

13. Attached hereto as Exhibit L is a true and correct copy of the transcript of the January 5, 2018 proceedings before United States Magistrate Judge Robert W. Lehrburger in *United States v. Sweet*, 18 Cr. 8 (S.D.N.Y).

14. Attached hereto as Exhibit M is a true and correct copy of a letter from the Government to All Counsel of Record, dated June 1, 2018.

15. Attached hereto as Exhibit N is a true and correct copy of the Agent Affidavit in Support of Application for Search and Seizure Warrant, dated August 25, 2017.

16. Attached hereto as Exhibit O is a true and correct copy of the Agent Affidavit in Support of Application for Search Warrants for Stored Electronic Communications, dated July 21, 2017.

17. I certify that I have conferred with the Government in an effort in good faith to resolve by agreement the issues raised by this motion without the intervention of the Court, in the form of the exchange of letters between Mr. Whittle (attached hereto as Exhibit H) and the Government (attached hereto as Exhibit M). The parties were unable to reach an agreement on these issues in advance of the filing deadline for discovery-related motions.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated: June 8, 2018
New York, New York



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